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Mayor

CITY OF NEWTON, MASSACHUSETTS

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Public Hearing Date:	July 13, 2004
Land Use Action Date:	July 27, 2004
Board of Aldermen Action Date:	September 20, 2004
90-Day Expiration Date:	October 4, 2004

TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Nancy Radzevich, Chief Planner
Eric Jerman, Senior Planner

SUBJECT: #286-04 NEWTON HOUSING AUTHORITY/HABITAT FOR HUMANTY
GREATER BOSTON, INC./NEWTON CONSERVATORS INC. petition for a
SPECIAL PERMIT/SITE PLAN APPROVAL for a rear lot subdivision in order to
construct a two-family dwelling at 76 WEBSTER PARK, Ward 3, WEST NEWTON,
on land known as Sec 33, Blk, 22, Lot 36 (a portion of), containing approximately
10,053 sf of land in a district zoned MULTI RESIDENCE 1.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

I. ELEMENTS OF THE PETITION

The petitioners are seeking a special permit to create a rear lot subdivision. The existing parcel is a 49,605sq. ft. lot. Over half of the property (29,487 sq. ft.) will be subdivided off and deeded to the Newton Conservation Commission and incorporated into the existing Dolan Pond Conservation Area. The remaining 20,118 sq. ft. will be subdivided to create two residential lots.

The petitioners are requesting a special permit to use the rear lot line from the proposed front residential lot (Lot 1) to measure frontage for the proposed rear residential lot (Lot 2). If the Board grants a special permit to allow frontage to be measured along the rear lot line of Lot 1, Lot 2

would have 101.5' of frontage. Both lots *would meet the build factor and lot area criteria required for new lots in an MR1 District.*

The petitioners have indicated that Lot 1 will be deeded to the Newton Housing Authority and the existing single family residence, circa 1925, will be rented out to eligible families who are Newton residents with incomes of below 80% of the area median. Habitat For Humanity will purchase Lot 2 and will construct a two-family residential structure which will then be sold to eligible buyers who are Newton residents with incomes of below 60% of the area median.

The Planning Department has strongly encouraged the petitioners to submit an application to the Board of Survey for the Approval Not Required (ANR) process prior to submitting their application for a Special Permit. The petitioners will be required to file their ANR plan prior to exercising the Special Permit.

II. CPA PROJECT BACKGROUND

The subject property, formerly owned for decades by Miss Irene Forte, and commonly referred to as the "Forte Property," was purchased in 2003 using \$1,110,000 dollars appropriated and transferred from the Community Preservation Fund (Board Order #286-03) and is currently under temporary ownership by the Newton Conservators. (**SEE ATTACHMENT "A"**) The future plans for the property include a complex agreement whereby 2/3rds of the original Forte parcel will be permanently preserved as public open space land that is owned by the City and incorporated into the Dolan Pond Conservation Area, and the remaining approximately 1/3rd will be utilized for affordable housing. Narrow conservation easements placed upon the two proposed residential housing lots will be given to the Dolan Pond Conservation area and will ensure that a full 2/3rds of the original parcel is permanently preserved as open space while also making sure that the proposed two residential lots have enough square footage to meet zoning requirements.

In the original CPA application the plan was to simply add two units onto the existing structure. On June 30, 2004 the petitioners presented to the Community Preservation Committee (CPC) a request for amendment to condition two of Board Order #286-03 to allow the petitioners to construct two additional housing units (approximately 1,200 sq. ft. per unit) to be built on a rear lot subdivision located behind the existing building, thereby replacing the requirement that the two new units be attached to the existing building. The CPC voted to recommend approval of the amendment and it is expected that the Board's Committee for Community Preservation will discuss the proposed amendment at their next regularly scheduled meeting on September 28, 2004.

The Zoning Administrator's review dated June 15, 2004, is attached to this memorandum (SEE "ATTACHMENT B").

III. ZONING RELIEF BEING SOUGHT

The petitioners are seeking relief from or approvals through the following section(s) of the zoning ordinance:

- *Section 30-15(b)(4) allows the Board of Aldermen to grant a special permit for the new Lot 2, whose frontage would be measured entirely along the rear lot line of Lot 1;*
- *Section 30-23 for Site Plan Approval; and*
- *Section 30-24 for Special Permit Approval.*

In their application for a special permit, the petitioners have included a request for relief from the following sections of the Zoning Ordinance. (NOTE: the Chief Zoning Code Official did not cite these in his Zoning Determination, dated June 15, 2004.)

- *Section 30-19(m) allows the Board of Aldermen to grant exceptions to the dimensional requirements for parking if it is determined that compliance is impractical due to the nature of the site and that such exceptions would be in the public interest. The petitioners did not cite particular waivers.* Even though this particular section was not mentioned in the Chief Zoning Code Official's memo, the Planning Department believes this section was cited to allow for the shared driveway.
- *Section 30-21 pertains to expansions or alterations to existing non-conforming structures and uses.*

IV. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board should consider the following:

- *Whether the site is appropriate for the creation of a new rear lot for two attached dwelling units;*
- *Whether the proposed structures are consistent with the scale and character of existing residences in the neighborhood; and*
- *Whether the proposed shared driveway is appropriate.*

V. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Site

The rectangular 20,118 s.f. lot has frontage on Webster Park and is improved with an existing single family residence, circa 1925, a 240 sq. ft. single-car garage, and a smaller 144 sq. ft. utility shed. On the subject property are many mature trees, some as large as 30" in diameter.



Photo #1: Existing single-family residence, circa 1925, located at 76 Webster Park. Proposed driveway for proposed Lots 1 and 2 is to be constructed to the left of the home.



Photo #2: Existing garage to be demolished to make way for proposed driveway.



Photo #3: Existing shed to be demolished to make way for proposed driveway.

B. Neighborhood

Located in a Multi-Residence 1 District, the subject property is surrounded on the north and east by land that is to be deeded to the Newton Conservation Commission and incorporated into the Dolan Pond Conservation Area. The surrounding neighborhood includes a mix of single and two-family residences. There is one immediate abutter to the subject property, to the south, located at 80 Webster Park . The Massachusetts Turnpike is located approximately 900 feet to the south and the West Newton Village Center is about 1/3 mile from the subject property.

VI. ANALYSIS

A. Technical Considerations

The following table compares the existing residence and the proposed new residences and lots to the technical requirements for a single family structure in a Multi-Residence 1 district:

MULTI RESIDENCE 1	Ordinance	Existing	New Front Residential Lot (Lot 1)	New Rear Residential Lot (Lot 2)
Min. Lot Size	10,000 s.f.	49,605 s.f.	10,063 s.f.	10,055 s.f.
Min. Lot Area Per Unit	5,000 s.f.	49,605 s.f.	10,063 s.f.	5,027.5 s.f.
Min. Frontage	80 ft.	177 ft.	80.78 ft.	0 ft.
Setbacks Front Side Rear	30 ft. 10 ft. 15 ft.	34 ft. 13 ft. 245 ft.	34 ft. 13 ft. 53 ft.	31 ft. 20 ft. 23 ft.
Max. Height	30 ft.	25 ft.	25 ft.	24 ft.
Max. Stories	2 ½ stories	2 ½ stories	2 ½ stories	2 ½ stories
Max Lot Coverage	30%	.03%	10.8 %	12.3 %
Min. Open Space	50%	N/A	68.9%	72%
Build Factor	20	N/A	17.86 Meets Zoning Ordinance Requirements	18.06 Meets Zoning Ordinance Requirements
F.A.R.	0.4	N/A	.32	.24
Parking Spaces	2stalls/ residence	2 stalls	2 stalls	4 stalls
Width of Driveway	12' min. 20' max.	12 ft.	12 ft.	12 ft.

As shown in the table, above other than frontage for the rear lot, both lots and residences will meet the dimensional controls in an MR1 District.

B. Traffic/Parking Analysis

The submitted plans show one curb cut on Webster Park and a 12- foot wide driveway will service both proposed Lots 1 and 2. Lot 1 will have two parking spaces and Lot 2 will have four parking spaces, in accordance with the parking ordinance.

Although the Planning Department typically looks to minimize pavement, the configuration of the parking layout on Lot 2 does not appear to allow sufficient room for vehicles to turn around. The Planning Department recommends that the parking stall length be extended for the two inner-most stalls to allow for safer access/egress. **(See Attachment C)** However, the lengthening of the 2 stalls should not be made at the

expense of any of the existing mature trees and should be undertaken only if it does not pose a risk to damaging or destroying existing trees.

C. Land Use

The subject property currently has one existing single-family residential structure that was constructed approximately in 1925. The petitioners propose to subdivide the lot with the existing residential structure on the proposed Lot 1, and a proposed 2-family residential structure to be constructed on proposed Lot 2. There will be conservation easements placed upon both lots and given to the Newton Conservation Commission. The Planning Department believes that the proposal is an appropriate land use for the site and the new dwelling units should fit in with the surrounding neighborhood.

D. Building and/or Site Design

The existing residential structure, constructed circa 1925, is a wood frame construction and has a wood clapboard exterior. The Newton Housing Authority is not proposing to make any alterations or changes to the exterior.

The 2-family residential structure proposed to be constructed on Lot 2 ,will be a 2½ story wood frame construction with a slab foundation, and an attic space; there will not be a basement. The submitted plans indicate that the exterior finish will be “hard-shingle siding by James Hardy,” a synthetic product that is fabricated from materials including cement and gypsum. In an effort to maintain the consistency with the existing residence and others in the surrounding neighborhood, the Planning Department has recommended to the petitioners that the exterior finish be constructed with natural materials, such as wood clapboard. The petitioners have indicated that they are considering making this change.

There is an existing 240 sq. ft. single-car garage and a 144 sq. ft. shed both of which appear to have been constructed in 1925 or within a few years following the construction of the existing single family residence. The petitioners have indicated that they wish to demolish the two existing accessory structures and replace them with pre-fabricated structures, measuring 8’ x 12’, constructed with 2”x4” lumber, pine siding, and shingles on a peak roof design. The Planning Department notes that instead of demolishing these structures, the garage and/or shed could possibly be relocated to either Lot 1 or Lot 2 and would provide storage space for yard tools, toys, etc.

The Planning Department notes that the Site Plans do not include landings, stairs, and sidewalks that are depicted on the Landscape Plans. ***For consistency purposes, prior to the Working Session, the petitioners should submit revised Site Plans that include all stairs, landings, and sidewalks.***

While the submitted plans appear to indicate that the petitioners have sited the proposed 2-family residential structure in a location that will minimize the removal of mature trees, the Newton Tree Ordinance is in effect for the proposed Lot 2 and, therefore, the petitioners shall be responsible for replacing trees that are removed. Although the Tree Ordinance regulations do not fall under the purview of the Board, it is in the best interest of the petitioners that they develop a plan that meets the ordinance

requirements. ***The Planning Department recommends that the petitioners revise the Landscape Plan to indicate the locations of removed trees and the locations of replacement trees of comparable diameter, as required by the City's Tree Ordinance. The petitioners shall submit a copy of this plan to the Planning Department and the Tree Warden for review prior to the Working Session.***

The submitted plans indicate that there will be a fence constructed on both Lots 1 and 2, along the conservation easement, to delineate the limits of usable yard space. Because the fence will be used to delineate the conservation easement that will be granted to the Dolan Pond Conservation Area, the Planning Department recommends that the fence be constructed of natural materials. At the request of the Planning Department, the petitioners have submitted an elevation detail indicating that the proposed fence will be 3' 6" tall and will be a painted wood fence. The Planning Department notes that this elevation detail should be incorporated into the full-size set of plan drawings. ***Prior to the Working Session, the petitioners shall revise the submitted Site Plans and Landscape Plans to include a detail (partial elevation) of the proposed fence, including a note identifying the construction materials.***

As mentioned above, both Lots 1 and 2 will have conservation easements covering a narrow portion of land, between 8 and 15 feet wide, located generally north of and adjacent to the driveway that will be given to the Newton Conservation Commission. The Newton Conservation Commission has indicated that "the purposes of this Conservation Restriction are to ensure that the Conservation Restriction Area will be retained, in perpetuity, predominantly in its natural, scenic and wooded condition and to prevent any use of the Conservation Restriction Area that will significantly impair or interfere with the conservation values of the Conservation Restriction Area."

E. Department/Commission Reviews

The Acting City Engineer is expected to complete his site engineering review prior to the public hearing.

The Newton Fire Department has reviewed a site plan and has stamped the plan with a note that reads, "Plans have been reviewed and accepted as noted," dated 4/14/04. (SEE ATTACHMENT "D")

F. Relevant Site Plan Approval Criteria

1. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking. The sharing of access driveways by adjoining sites is to be encouraged wherever feasible

The proposed 12'-wide driveway will have one curb cut and will be shared by both proposed Lots 1 and 2. As previously noted, the Planning Department believes that 2 of the 4 stalls on Lot 2 should be lengthened to allow all vehicles to safely reverse and exit the site in a forward direction. ***Prior to the Working***

Session the petitioners shall revise the Site Plans to indicate that the 2 inner parking spaces have been lengthened. See Section V.B.

2. Screening of parking areas and structure(s) on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between the street and existing or proposed structures shall be discouraged

The subject property, heavily wooded with mature trees, will be surrounded on the north and east sides by wooded property that has been recently incorporated into the Dolan Pond Conservation Area. The submitted plans indicate that the proposed 2-family residential structure on the proposed Lot 2 will have appropriate foundation landscaping. These plantings, in addition to the existing mature trees surrounding the proposed structure, should provide adequate screening of the proposed residential structure and parking areas from the abutter to the south.

3. Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with the appearance of neighboring developed areas

The proposed 2-family residential structure on Lot 2 appears to be a slab on-grade construction. From the submitted plans, it does not appear that much re-grading work will be done. The new residences have been sited so as to minimize the removal of existing mature trees, however, the petitioners will need to comply with the Tree Ordinance for any trees which are removed. See section V.D.

4. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines

The proposed Contemporary 2-family residential structure with Craftsman-style detailing to be constructed on Lot 2 appears to be appropriately scaled for the neighborhood. The Planning Department has requested that the exterior materials be natural wood clapboard to match the existing residence instead of the proposed synthetic shingling. See Section V.D.

G. Relevant Special Permit Criteria

1. The specific site is an appropriate location for such use, structure

The subject property is located in a Multi-Residence zone district and appears to be appropriate for an increase in density from one to three units.

2. The use as developed and operated will not adversely affect the neighborhood

Five of the nearby properties on Webster Park are improved with 2-family structures. The proposed rear-lot subdivision will increase the density to a total of 3 residential units; this should not pose any significant impacts upon the surrounding neighborhood. The design of the proposed 2-family residential

structure is modest and the proposed landscaping combined with the existing mature trees, should provide adequate screening of the new construction from the surrounding residences.

3. There will be no nuisance or serious hazard to vehicles or pedestrians

With the entrance to the Dolan Pond Conservation Area located several hundred feet to the north on Webtser Park the subject property is effectively one of the last properties on a dead-end street. The creation of the new lot and construction of the 2-family residence should not pose a nuisance or hazard to vehicles or pedestrians.

4. Access to the site over streets is appropriate for the type(s) and number(s) of vehicles involved

The proposed 12 foot-wide driveway appears to be appropriate for three residential units.

VII. SUMMARY

The subject property, commonly referred to as the “Forte Property,” was purchased in 2003 using \$1,110,000 dollars appropriated and transferred from the Community Preservation Fund (Board Order #286-03) and is currently under temporary ownership by the Newton Conservators. The future plans for the property include a complex agreement whereby 2/3rds of the original Forte parcel will be preserved as open space land and incorporated into the Dolan Pond Conservation Area, and the remaining approximately 1/3rd will be utilized for affordable housing.

The petitioners are seeking a special permit to create a rear lot subdivision for the creation of a new 2 unit attached dwelling. Although the ANR plan has not yet been filed, the petitioners intend to subdivide this property. Almost 2/3rds of the property will be subdivided off and incorporated into the adjacent Dolan Pond Conservation Area. The remaining 20,111 sq. ft. would be subdivided to create 2 residential lots. The petitioners are requesting a special permit to use the rear lot line from the proposed front residential lot (Lot 1) to measure frontage for the proposed rear residential lot (Lot 2). If the Board grants a special permit to allow frontage to be measured along the rear lot line of Lot 1, Lot 2 would have 101.5’ of frontage. Both lots *would meet the build factor and lot area requirements required for new lots in an MR1 District.*

The subject property appears to be an appropriate location for a rear-lot subdivision to allow for 2 new residential dwelling units. The scale of the new structure would be consistent with the surrounding neighborhood.

The Planning Department believes that if the Special Permit is approved by the Board of Aldermen that approval be conditioned upon successful completion of the ANR process to divide the existing 49,506 sq. ft. parcel into a 20,118 sq. ft. parcel and a 29,487 sq. ft. parcel.

Prior to the Working Session:

1. *The petitioners shall respond to all issues raised by the City Engineer.*
2. *The petitioners shall submit revised Site Plans that include all stairs, landings, and sidewalks.*
3. *The petitioners shall revise the Landscape Plan to indicate the locations of removed trees and the locations of replacement trees of comparable diameter, as required by the City's Tree Ordinance. The petitioners shall submit a copy of this plan to the Planning Department and the Tree Warden for review prior to the Working Session.*
4. *The petitioners shall revise the submitted Site Plans and Landscape Plans to include a detail (partial elevation) of the proposed fence, including a note identifying the construction materials.*
5. *The petitioners shall revise the Site Plans to indicate that the 2 inner parking spaces have been lengthened.*